

BILLIE RAY STOVER and MAY)	Case No.: 2:09-cv-01859-GMN-RJJ
BENNET STOVER,)	
)	
)	ORDER
Plaintiffs,)	
vs.)	
)	
FINDLAY RV CENTER, INC., <i>et al.</i> ,)	
)	
Defendants.)	
)	

Plaintiffs filed a Response to the Order to Show Cause on April 25, 2011 (ECF No. 70).

1 In this Response, Plaintiffs stated that they do not have sufficient funds to pursue the lawsuit and
2 that they “have no objection to this court dismissing the lawsuit or any other relief deemed
3 reasonable.” (*Id.*).

4 Federal Rule of Civil Procedure Rule 41(b) governs involuntary dismissals. The Rule
5 provides: “If the plaintiff fails to prosecute or to comply with these rules or a court order a
6 defendant may move to dismiss the action or any claim against it.” Accordingly this Court finds
7 that Plaintiffs have failed to prosecute the instant case and dismissal is proper.

8 Before dismissing the case for lack of prosecution the court must consider the following
9 five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need
10 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
11 disposition of cases on their merits; and (5) the availability of less drastic sanctions.”

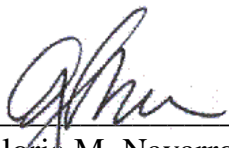
12 *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). In doing so, the Court finds that it
13 is appropriate to dismiss this case.

14 In addition, U.S. Bank requests this Court grant it attorney’s fees and costs pursuant to
15 the Retail Installment Contract and Security Agreement attached as Exhibit A to its motion to
16 dismiss. The copy of the contract is illegible. Therefore, U.S. Bank is **ORDERED** to resubmit
17 the contract along with any motion for attorney’s fees and costs it believes it is entitled to based
18 on the litigation.

19 **IT IS HEREBY ORDERED** that Defendant U.S. Bank N.A.’s Motion to Dismiss (ECF
20 No. 77) is **GRANTED**.

21 Plaintiff’s Complaint is **DISMISSED with prejudice**.

22 DATED this 7th day of July, 2011.

23
24 
25 Gloria M. Navarro
United States District Judge